

As set forth more fully in the brief filed in support of this motion, injunctive relief is warranted because Texas is likely to prevail on its claims that the vaccine mandate adopted by the Centers for Medicare and Medicaid Services (“CMS”) is unlawful: CMS lacked statutory authority to adopt it, CMS failed to follow required procedures for adopting a rule, and CMS acted arbitrarily and capriciously when adopting the mandate. Moreover, the vaccine mandate will cause irreparable harm by interfering with the provision of healthcare services in Texas as healthcare providers, who are already short staffed, will be required to terminate additional workers who choose not to be vaccinated.

For the reasons discussed here and in Plaintiffs’ brief in support, the Court should grant Plaintiffs’ request for a temporary restraining order and preliminary injunction.

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant
Attorney General

LESLEY FRENCH
Chief of Staff

PATRICK SWEETEN
Chief, Special Litigation Unit

Office of the Attorney General
P.O. Box 12548 (MC-059)
Austin, Texas 78711-2548
Tel.: (512) 936-1700
Fax: (512) 474-2697

/s/ Landon A. Wade
LANDON A. WADE
Assistant Attorney General
Texas Bar No. 24098560
landon.wade@oag.texas.gov

JEFFREY M. WHITE
Special Counsel for Special Litigation
Texas Bar No. 24064380
jeff.white@oag.texas.gov

CYNTHIA A. MORALES
Texas Bar No. 14417420
cynthia.morales@oag.texas.gov

JOHNATHAN STONE
Texas Bar No. 24071779
jonathan.stone@oag.texas.gov

CHRISTINA CELLA
Texas Bar No. 24106199
christina.cella@oag.texas.gov

CLAYTON WATKINS
Texas Bar No. 24103982
clayton.watkins@oag.texas.gov

AMY WILLS
Texas Bar No. 24093379
amy.wills@oag.texas.gov
Assistant Attorneys General

BETH KLUSMANN
Texas Bar No. 24036918
beth.klusmann@oag.texas.gov
Assistant Solicitor General

Counsel for Plaintiffs

CERTIFICATE OF CONFERENCE

I hereby certify that on November 16, 2021, counsel for Plaintiffs, Cynthia A. Morales, conferred with counsel for Defendants, Joel McElvain, regarding the substance of this motion. Defendants are opposed to the motion because they oppose the relief sought in Plaintiffs' motion.

/s/ Landon A. Wade

LONDON A. WADE

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on November 16, 2021. The foregoing document was also served electronically on counsel for Defendants on November 16, 2021, although counsel for Defendants has not agreed to accept electronic service. I further certify that a true and accurate copy of the foregoing document will be served by mail on the following recipients on November 17, 2021:

Xavier Becerra

Secretary of the United States Department of Health and Human Services
United States Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

United States Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Chiquita Brooks-LaSure
Administrator of Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Meena Seshamani
Deputy Administrator and Director of Center for Medicare

7500 Security Boulevard
Baltimore, MD 21244

Daniel Tsai
Deputy Administrator and Director of Medicaid and CHIP Services
7500 Security Boulevard
Baltimore, MD 21244

The Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Joseph R. Biden
President of the United States
c/o U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530-0001

U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530-0001

U.S. Attorney for the Northern District of Texas
U.S. Attorney's Office
1100 Commerce Street, Third Floor
Dallas, Texas 75242

/s/ Landon A. Wade
LANDON A. WADE